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**REPORT TO THE COMMITTEE
ON LAND USE AND HOUSING**

AMENDMENTS TO SINGLE ROOM OCCUPANCY HOTEL REGULATIONS

The City Attorney is recommending amendments to the City's Single Room Occupancy [SRO] Hotel regulations to bring the regulations into compliance with State law.

BACKGROUND

Efforts have been made to revise the City SRO regulations for a number of years. The City Attorney recommended amendments to the City's SRO regulations in December 2002. The 2002 amendments included clarification of the definition and noticing requirements to correct legal deficiencies and additional provisions to strengthen and clarify the regulations that are not part of the current proposed ordinance. That ordinance was proposed for adoption on an emergency basis and therefore required six votes. It failed by a 5-3 vote, with one council member absent.

Recommended SRO revisions were then made a part of the proposed fourth Update of the Land Development Code. However, the SRO revisions were removed from the Code Update process so that more comprehensive policy issues could be addressed. For the past year, San Diego Housing Commission staff and City staff have worked with various community constituencies to craft amendments to the regulations pursuant to Council direction. Because many of the City's SRO Hotels are in the Centre City area, Center City Development Corporation is an integral part of the development of the proposed revisions. In January, CCDC advised that it would not be prepared to provide proposed changes to the Centre City Planned District regulations to implement the proposed ordinance until the current Centre City Community Plan update process is completed. That process is estimated to be completed sometime later this year.

Given the delay in processing the proposed policy revisions, the City Attorney is once again recommending that the City Council adopt necessary changes to ensure enforceability of the City's current regulations. Attached is a proposed draft ordinance for the Committee's consideration.

RECOMMENDATION AND ANALYSIS

The attached draft ordinance changes the City's existing regulations to make them consistent with State law. In addition, the definition of SRO Hotel is revised to be consistent with the State law definition of "residential hotel." The ordinance revises the time period for providing notice to tenants to vacate an SRO.

The definitional change is recommended for two reasons. Recent amendments to State law protect the City's existing regulations provided they regulate "residential hotels" as defined in State law and further limited in the Ellis Act. The Ellis Act, as has been summarized for the Committee previously, is State law that precludes the City from adopting regulations that prevent a landlord from going out of the rental housing business. Courts in California have interpreted the Ellis Act to apply to charter cities and to prevent replacement housing requirements for SRO hotels. Assembly Bill 1217, which became effective January 1, 2004, exempts the City from the provisions of the Ellis Act as to "residential hotels" that had certificates of occupancy prior to 1990 and that did not send a notice to the City before January 1, 2004, stating their intent to withdraw accommodations from the market. Thus, by revising the City's definition to be consistent with State law, we ensure the continued enforceability of the City's existing regulations. The definitional change is also recommended because the current language could be read to apply to tourist hotels, which is not the stated purpose of the regulations and leaves the regulations vulnerable to legal challenges.

The change to the notice requirements is necessary to be consistent with court cases finding that longer notice requirements are preempted by State law. The regulations currently require a 90-day notice of termination to tenants. However, State law requires either 30 or 60 days for a notice of termination, depending upon the length of residency of the tenant. Courts have ruled that cities are preempted in this area and may not require a longer period for termination of tenancies than is provided in State law.

The attached ordinance is limited to these proposed changes. However, consistent with our recommendations to the Council in 2002, we recommend that the regulations be revised to include a permit requirement and a procedure for SRO conversions to enable the City to better enforce the regulations at the outset of a conversion, rather than afterwards. Those changes were in our proposed 2002 draft and we will continue to work with staff for a more comprehensive update of the regulations to address this issue.

CONCLUSION

The City Attorney recommends that the Committee support Council adoption of limited amendments to the existing regulations to ensure their compliance with applicable State law. If the Committee recommends this ordinance for introduction and adoption by the City Council, we anticipate including the ordinance with the ordinances proceeding to City Council as part of the fourth Update of the Land Development Code.

Respectfully submitted,

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City Attorney

PD:dm
Attachment 1
RC-2004-12